

(9) Whenever the Bank determines during the course of an investigation that it is necessary to compel or induce the cooperation of an employee, the Bank shall first consult with the Department of Justice. The Department of Justice will coordinate with the Bank to determine the procedures the Bank may use to compel an employee's participation without foreclosing possible criminal proceedings.

(10) The Bank shall maintain records of all disclosures that have been reported or investigated.

(11) All employees shall cooperate fully with officials of the Bank or other agencies who are conducting investigations of unauthorized disclosures of classified information.

(12) Employees determined by the Bank to have knowingly participated in an unauthorized disclosure of classified information or who have refused to cooperate with an investigation of such a disclosure shall be denied further access to classified information and shall be subject to other appropriate administrative sanctions. Prior to taking action against an employee in connection with the unauthorized disclosure or classified information, the Bank shall consult with the Department of Justice, Criminal Division.

PART 404—DISCLOSURE OF INFORMATION

Sec.

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AUTHORITY: 5 U.S.C. 552; 12 U.S.C. 635; Freedom of Information Reform Act of 1986, Pub. L. 99-570; Debt Collection Act of 1982, Pub. L. 97-365.

SOURCE: 40 FR 7238, Feb. 19, 1975, unless otherwise noted.

§ 404.1 Purpose and policy.

(a) This part establishes policy and procedures governing public access to

information contained in the files, documents, and records of the Export-Import Bank of the United States (Eximbank). In keeping with the spirit as well as the letter of Pub. L. 90-23, which codified and repealed Pub. L. 89-487, amending 5 U.S.C. 552, formerly section 30 of the Administrative Procedure Act, 60 Stat. 236, 5 U.S.C. 1002 (1964 Ed), and Pub. L. 93-502, further amending 5 U.S.C. 552, it reflects Eximbank policy that disclosure is the general rule rather than the exception. It is in addition a recognition that this policy in favor of disclosure extends in many instances to information technically exempt from disclosure under the law where such disclosure would not adversely affect some legitimate public or private interest intended to be protected by law, would not otherwise violate law or other authority, and would not impose an unreasonable burden upon Eximbank.

(b) This part is also a recognition that the soundness of many Eximbank programs, e.g. loans, guarantees and insurance, depends in large measure upon the reliability of commercial, technical, financial and business information relating to the affairs of applicants for Eximbank assistance. Since the release of such information would jeopardize the credit and competitive business position of an applicant it is essential that applicants be assured that confidential commercial or financial information which is submitted to Eximbank will not be disclosed to the public. By this assurance, applicants will be encouraged to make complete disclosure of material bearing upon an application.

§ 404.2 Scope.

This part applies to all files, documents, records, and information obtained or produced by officers and employees of Eximbank in the course of their official duties as well as all files, documents, records and other information in the custody or control of any Eximbank officer or employee. It does not purport to describe or set forth every file, document, record, or item of information which may or may not be disclosed or to incorporate every exemption from disclosure provided by

law. Material described is illustrative rather than exclusive.

§ 404.3 Information and records available to the public and exempt from disclosure.

(a) *General.* All Eximbank information and records in existence which are not exempt by law are available for public inspection and copying in the manner specified in § 404.4. In addition, certain materials technically qualifying for exemption from disclosure will be made available where disclosure would not adversely affect some legitimate public or private interest, would not otherwise violate law or other authority, and would not impose an unreasonable burden on Eximbank. Reasonable requests for material not in existence may also be honored where their tabulation or compilation will not unduly interfere with Eximbank activities, programs and operations. As provided in § 404.6, a fee will be charged for Eximbank's expenses incurred in searching for, duplicating, tabulating or compiling such information and records.

(b) Information and records which are available to the public.

The following kinds of records and information are available to the public in the manner specified in § 404.4:

- (1) Names of recipients of loans, guarantees, insurance and other assistance,
- (2) The kind and amount of assistance,
- (3) The purpose of the approved assistance in general terms,
- (4) The extent of outside participation, if any, and
- (5) Statistical data on Eximbank programs.

(c) Information which is generally not available to the public. The following kinds of information are generally not available to the public:

- (1) Information on declined, withdrawn, or cancelled applications for assistance,
- (2) Trade secrets obtained from applicants for Eximbank assistance,
- (3) Privileged or confidential commercial or financial information obtained from any person, including, for example, such information contained in individual case files relating to such

activities as loans, guarantees and insurance,

(4) Loan agreements, insurance policies and bank guarantee agreements relating to individual borrowers or foreign buyers receiving Eximbank assistance,

(5) Information concerning losses, delinquencies and defaults in individual cases, and

(6) Names of participating lending institutions and the terms of their participation without their consent.

(d) Minutes of the meetings of the Board of Directors. These are available for inspection and copying in Eximbank's Office of the Secretary in Room 933, 811 Vermont Avenue NW., Washington, DC 20571.

(e) Personnel and similar files. Exempt from disclosure are personnel, medical and other files containing private or personal information. The names, position titles, and duty stations of Eximbank employees are public information but their home addresses are not. The disclosure of private or personal information contained in other files, for example, in the files relating to members of Eximbank's Advisory Board and to applicants for Eximbank assistance, also would be exempt.

(f) *Eximbank staff directives and other instructions to staff.* All staff directives are considered public information except: (1) Those relating to audits and investigations, internal financial management and fiscal operations, and (2) portions of directives containing confidential standards and instructions, as, for example, instructions concerning processing loan, guarantee or insurance applications, negotiations or bargaining in connection with the disposition and liquidation of loans, and loan collateral held by Eximbank.

(g) *Litigation materials.* Copies of pleadings, motions, orders, transcripts of testimony, and documentary evidence introduced in pending or closed litigation are available once such items are a matter of public record.

(h) *Internal communications.* Inter-agency or intraagency communications not routinely available to a party to litigation with Eximbank are exempt from disclosure. These would include,

among other things, drafts, memoranda between officials or agencies, Eximbank staff memoranda, opinions and interpretations prepared by Eximbank attorneys or consultants for use of Eximbank, research studies performed internally or under contract for internal management purposes, and internal management reports.

[40 FR 7238, Feb. 19, 1975, as amended at 52 FR 37438, Oct. 7, 1987]

§ 404.4 Public access to information and records.

(a) *Facilities.* Eximbank facilities are available to the public during normal business hours for requesting, inspecting and copying information and records. Reproduction machines will also be available in or through such facilities. The Public Affairs Office is located in Room 1267, 811 Vermont Avenue NW., Washington, DC 20571.

(b) *Materials available in Public Affairs Office.* (1) For the convenience of the public, certain Eximbank materials will be maintained and readily available in the public information office. These will include:

- (i) All Eximbank directives and manuals not exempt from disclosure,
 - (ii) Eximbank Rules and Regulations (including Interpretations), and
 - (iii) Index of Eximbank materials, including lists of staff directives, forms, reports, and Eximbank official actions.
- (2) The public affairs office will, in addition to the above, have normally available, among other things:
- (i) Pamphlets describing Eximbank Programs,
 - (ii) Press releases,
 - (iii) Names of recipients of Eximbank support and related information not exempt from disclosure,
 - (iv) Eximbank's Annual Report to the President and the Congress,
 - (v) Routine statistical reports on Eximbank activities,
 - (vi) Minutes of Meetings of the Board of Directors, and
 - (vii) Blank Eximbank forms.

(c) *Requests for information and records.* Requests for information, records and other materials not readily available at the Public Affairs Office are to be submitted and processed in accordance with the following procedures:

(1) *Form of request.* Each request shall be addressed to the Export-Import Bank of the United States, Attention: Office of the Secretary in Room 933, 811 Vermont Avenue, NW., Washington, DC 20571. The envelope and the letter containing the request must be clearly marked in capital letters as follows: FREEDOM OF INFORMATION ACT REQUEST. A request submitted in an envelope which is not addressed to the Senior Vice President—Research and Communications will not be deemed to have been received by Eximbank until such time as the request is forwarded to such officer. All requests must be in writing and must be marked and addressed as specified in this section.

(2) *Description of material requested.* Each request shall reasonably describe the document or information with respect to names, dates and subject matter to permit it to be located among the records maintained by Eximbank. A request that does not substantially comply with paragraph (c)(2) of this section will not be deemed to have been received by Eximbank until such time as the requester has clarified his request to meet this standard. Eximbank will make every reasonable effort by telephone or by letter to assist the person making the request to be more specific in describing the document or information.

(3) *Notification of Eximbank action.* The person making the request normally will be notified of the availability of the material within 10 working days after the date of receipt of the request. If Eximbank determines to comply in whole or part with a request for records, the information or records shall be made available promptly provided the requirements of paragraph (c)(6) of this section regarding payment of fees are satisfied. Any denial of a request in whole or in part shall be made in writing by the General Counsel or his designee. The letter shall set forth the reasons for the denial. Any person whose request for information has been denied may appeal from such determination in accordance with § 404.5.

(4) *Extension of time.* In certain unusual circumstances, as set forth below, the period of time within which

Eximbank will respond to an initial request (10 working days) may be extended by an additional 10 working days. A determination that an extension of time to respond to a request is appropriate will be made by the General Counsel or his designee by giving written notice to the requester setting forth the reasons for the extension and the date on which a determination is expected to be made. Unusual circumstances which could necessitate the extension are the following:

(i) The need to search for and collect the requested records from field facilities or other establishments that are separate from the office processing the request;

(ii) The need to search for, collect, and appropriately examine a voluminous amount of separate and distinct records which are demanded in a single request; or

(iii) The need for consultation, which shall be conducted with all practicable speed, with another agency having a substantial interest in the determination of the request or among two or more components of the agency having substantial subject-matter interest therein.

(5) *Fees.* A fee will be imposed for Eximbank expenses incurred in searching for, duplicating, tabulating, or compiling the record or information in accordance with the schedule set forth in § 404.6. A letter requesting a document or information should specifically state that all costs involved will be paid or, alternatively, that they will be paid up to a specified limit. If the letter makes no reference to anticipated fees, and the request is expected to involve fees in excess of \$25, or it is estimated by Eximbank that the fee will exceed the dollar limit specified in the request, Eximbank will notify the requester of the estimated fee promptly upon receipt of the request. The request will not be deemed to have been received until Eximbank receives a reply from the requester stating his willingness to pay the estimated fee.

(6) *Deletions.* If it is determined that a portion of a record is exempt from disclosure, any reasonably segregable portion of the record will be provided

the requester after deletion of the exempt portions.

[40 FR 7238, Feb. 19, 1975, as amended at 42 FR 56316, Oct. 25, 1977; 52 FR 37438, Oct. 7, 1987]

§ 404.5 Administrative appeal of refusal to disclose.

(a) *Who may appeal.* Any person whose request for information or records has been denied in whole or in part shall be entitled to submit a written appeal to Eximbank.

(b) *Time for appeal.* An appeal from a denial may be filed with Eximbank anytime following the date of receipt of the initial determination, in cases of denials of an entire request, or from the date of receipt of any records being made available under an initial determination, in cases of partial denials.

(c) *Form of appeal.* An appeal shall be in a letter addressed to the Export-Import Bank of the United States, Attention: President and Chairman, 811 Vermont Avenue, Washington, DC 20571. The envelope and the letter setting forth the appeal shall be clearly marked in capital letters: FREEDOM OF INFORMATION ACT APPEAL. The letter shall reasonably describe the information or records requested, the name and title of the Eximbank official or employee who denied the request, and such other pertinent facts and statements as the appellant may deem appropriate. An appeal submitted in an envelope which is not addressed to the President and Chairman will not be deemed to have been received until such time as the appeal is forwarded to such officer.

(d) *Eximbank decision.* Final Eximbank decision on appeals from denials of requests for information or records shall be made in writing by the President and Chairman or his designee within 20 working days after the date of receipt of the request, unless an extension of up to 10 working days has been deemed necessary in accordance with the procedures set forth in § 404.4(c)(4) of this part. The 10-day extension may be applied to the response to the initial request or to the appeal, or to both, but in no event shall the extension exceed a total of 10 working days. If the decision upholds the denial of the request, the appellant shall be

notified in writing, which notice shall set forth the reasons for upholding the previous denial. The notification shall also refer to the provisions for judicial review of Eximbank's determination, 5 U.S.C. 552. If the President and Chairman or his designee acts favorably on the appeal, the information or records requested shall be made available promptly provided the requirements of § 404.4(c)(6) regarding payment of fees are satisfied.

[40 FR 7238, Feb. 19, 1975, as amended at 42 FR 56316, Oct. 25, 1977; 43 FR 14438 Apr. 6, 1978]

§ 404.6 Schedule of fees.

(a) *Definitions.* (1) The term *direct costs* means those expenditures which Eximbank actually incurs in searching for and duplicating (and in the case of commercial requesters, reviewing) documents to respond to a FOIA request. Direct costs include, for example, the salary of the employee performing the work (the basic rate of pay for the employee plus 16 percent of that rate to cover benefits) and the cost of operating duplicating machinery.

(2) The term *search* includes all time spent looking for material that is responsive to a request, including page-by-page or line-by-line identification of material within documents. Searches may be done manually or by computer using existing programming.

(3) The term *duplication* refers to the process of making a copy of a document necessary to respond to a FOIA request. Such copies can take the form of paper copy, microform, audio-visual materials, or machine readable documentation (e.g., magnetic tape or disk), among others. The copy provided must be in a form that is usable by requesters.

(4) The term *review* refers to the process of examining documents located in response to a request that is for a commercial use to determine whether any portion of any document located is permitted to be withheld. It also includes processing any documents for disclosure, e.g., doing all that is necessary to excise them and otherwise prepare them for release. Review does not include time spent resolving general legal or policy issues regarding the application of exemptions.

(5) The term *commercial request* refers to a request from or on behalf of one who seeks information for a use or purpose that furthers the commercial, trade, or profit interests of the requester or the person on whose behalf the request is made. In determining whether a requester belongs in this category, Eximbank must determine the use to which a requester will put the documents requested. Where Eximbank has reasonable cause to doubt the use to which a requester will put the records sought, or where that use is not clear from the request itself, Eximbank may seek additional clarification before assigning the request to a specific category.

(6) The term *educational institution* refers to a preschool, a public or private elementary or secondary school, an institution of graduate higher education, an institution of undergraduate higher education, an institution of professional education, and an institution of vocational education, which operates a program or programs of scholarly research.

(7) The term *non-commercial scientific institution* refers to an institution that is not operated on a *commercial* basis as that term is referenced in paragraph (a)(5) of this section, and which is operated solely for the purpose of conducting scientific research the results of which are not intended to promote any particular product or industry.

(8) The term *representative of the news media* refers to any person actively gathering news for an entity that is organized and operated to publish or broadcast news to the public. The term *news* means information that is about current events or that would be of current interest to the public. Examples of news media entities include television or radio stations broadcasting to the public at large, and publishers of periodicals (but only in those instances when they can qualify as disseminators of *news*) who make their products available for purchase or subscription by the general public. These examples are not intended to be all-inclusive. As traditional methods of news delivery evolve (e.g., electronic dissemination of newspapers through telecommunications services), such alternative

media would be included in this category. *Freelance* journalists may be regarded as working for a news organization if they can demonstrate a solid basis for expecting publication through that organization, even though not actually employed by it. A publication contract would be the clearest proof, but Eximbank may also look to the past publication record of a requester in making this determination.

(b) *Fees to be charged—general.* Eximbank will charge fees that recoup the full allowable direct costs it incurs, and will use the most efficient and least costly methods to comply with requests for documents made under the FOIA. Eximbank may contract with private sector services to locate, reproduce and disseminate records in response to FOIA requests when that is the most efficient and least costly method, and does not result in an ultimate cost to the requester greater than it would be if Eximbank had performed these tasks. Eximbank will not contract out responsibilities which the FOIA provides that it alone may discharge, such as determining applicability of an exemption, or determining whether to waive or reduce fees. When documents responsive to a request are maintained for distribution by agencies operating statutory-based fee schedule programs, such as the Government Printing Office or the National Technical Information Service, Eximbank will inform requesters of the steps necessary to obtain records from those sources.

(1) *Manual searches for records.* Eximbank will charge for search and review work performed by its employees according to the following fee schedule:

Clerical, hourly rate—\$12.00
Professional, hourly rate—\$24.00

(2) *Computer searches for records.* Eximbank will charge the actual direct cost of providing the service. This will include the cost of operating the central processing unit for that portion of operating time that is directly attributable to a FOIA request and operator/programmer salary apportionable to the search. Operator/programmer salary will be calculated at basic pay plus 16 percent. Average rates for CPU

operating costs and operator-programmer salaries involved in FOIA searches will be established and periodically revised to reflect actual direct costs. These rates will be available upon request.

(3) *Review of records.* Only requesters who are seeking documents for commercial use will be charged for time Eximbank spends reviewing records to determine whether they are exempt from mandatory disclosure. Charges will be assessed only for the initial review, i.e., the review undertaken the first time Eximbank analyzes the applicability of a specific exemption to a particular record or portion of a record. Eximbank will not charge for review at the administrative appeal level of an exemption already applied. However, records or portions of records withheld in full under an exemption which is subsequently determined not to apply may be reviewed again to determine the applicability of other exemptions not previously considered. The costs for such a subsequent review may be assessed. Eximbank will charge for employee time spent in review according to the rates set forth in paragraph (b)(1) of this section.

(4) *Duplication of records.* The per page charge for paper copy reproduction of documents is \$.25. For copies prepared by computer, such as tape or printouts, or for other methods of reproduction or duplication, Eximbank will charge according to their actual direct cost. If Eximbank estimates that duplication charges are likely to exceed \$25.00, it will notify the requester of the estimated amount of fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. Such notice will offer a requester the opportunity to confer with Eximbank personnel with the object of reformulating the request to meet his or her needs at a lower cost.

(5) *Other charges.* Complying with requests for special services such as those listed below is entirely at the discretion of Eximbank. Eximbank will recover the full costs of providing services such as those enumerated below to the extent that it elects to provide them:

(i) Certifying that records are true copies;

(ii) Sending records by special methods such as express mail, etc. (Charges will not be made for ordinary packaging and mailing.)

(6) *Restrictions on assessing fees.* With the exception of requesters seeking documents for a commercial use, Eximbank will provide the first 100 pages of duplication and the first two hours of search time without charge. Except for commercial use requesters, Eximbank will not begin to assess fees until after it has provided the free search and reproduction, and will not charge a fee in any case of \$6.00 or less. For example, for a request that involved two hours and ten minutes of search time and resulted in 105 pages of documents, Eximbank would determine the cost of only 10 minutes of search time and only five pages of reproduction. If this cost was equal to or less than \$6.00, no charges would result. For searches made by computer, when the cost of the search (including the operator time and the cost of operating the computer to process a request) equals the equivalent dollar amount of two hours of the salary of the person performing the search, Eximbank will begin to assess charges for computer search.

(c) *Fees to be charged—categories of requesters.* There are four categories of FOIA requesters, with specific levels of fees for each category prescribed by law. Requesters in each category must reasonably describe the records sought.

(1) *Commercial use requesters.* When Eximbank receives a request for documents for commercial use, it will assess charges which recover the full direct costs of searching for, reviewing for release, and duplicating the records sought. Inclusion in this fee category is determined not by the identity of the requester, but by the use to which the information will be put. Commercial use requesters are not entitled to two hours of free search time nor 100 free pages of reproduction of documents. Eximbank will recover the cost of searching for and reviewing records even if there is ultimately no disclosure of records.

(2) *Educational and non-commercial scientific institution requesters.* Eximbank

will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, requesters must show that the request is being made as authorized by and under the auspices of a qualifying institution and that the records are not sought for a commercial use, but are sought in furtherance of scholarly (if the request is from an educational institution) or scientific (if the request is from a non-commercial scientific institution) research. To be included in this category it must be apparent from the nature of the request that the request serves a scholarly research goal of the institution, rather than an individual goal.

(3) *Requesters who are representatives of the news media.* Eximbank will provide documents to requesters in this category for the cost of reproduction alone, excluding charges for the first 100 pages. To be eligible for inclusion in this category, a requester must meet the criteria in paragraph (a)(8) of this section, and his or her request must not be made for a commercial use. A request for records supporting the news dissemination function of the requester will not be considered to be a request that is for a commercial use.

(4) *All other requesters.* Eximbank will charge requesters who do not fit into any of the categories above fees which recover the full reasonable direct cost of searching for and reproducing records that are responsive to the request, except that the first 100 pages of reproduction and the first two hours of search time will be furnished without charge. Requests from record subjects for records about themselves filed in Eximbank systems of records will continue to be treated under the fee provisions of the Privacy Act of 1974 which permit fees only for reproduction.

(d) *Charging interest—notice and rate.* Eximbank will begin assessing interest charges on an unpaid bill starting on the 31st day following the day on which the billing was sent. Receipt of the fee at Eximbank will stay the accrual of interest. Interest will be at the rate prescribed in section 3717 of title 31 U.S.C. and will accrue from the date of the billing.

(e) *Charges for unsuccessful search.* Eximbank will assess charges for time spent searching, even if it fails to locate the records or if records located are determined to be exempt from disclosure. Prior to undertaking a search, if Eximbank estimates that search fees are likely to exceed \$25.00, it will notify the requester of the estimated amount of the fees, unless the requester has indicated in advance his willingness to pay fees as high as those anticipated. The notice will offer the requester the opportunity to consult with agency personnel with the object of reformulating the request to meet the requester's needs at lower cost.

(f) *Aggregating requests.* A requester may not file multiple requests at the same time each seeking a portion of a document or documents, solely in order to avoid payment of fees. When Eximbank reasonably believes that a requester or a group of requesters acting in concert is attempting to break a request down into a series of requests for the purpose of evading the assessment of fees, Eximbank may aggregate any such requests and charge accordingly. In no case will Eximbank aggregate multiple requests on unrelated subjects from one requester.

(g) *Method of payment and advance payments.* All payments to Eximbank shall be in the form of cash, check, or money order payable to the Export-Import Bank of the United States. Eximbank will not require a requester to make an advance payment—i.e., payment before work is commenced or continued on a request, unless:

(1) Eximbank estimates or determines that allowable charges that a requester may be required to pay are likely to exceed \$250.00, in which case Eximbank will notify the requester of the likely cost and obtain satisfactory assurance of full payment where the requester has a history of prompt payment of FOIA fees, or require an advance payment of an amount up the full estimated charges in the case of requesters with no history of payment or;

(2) A requester has previously failed to pay a fee charged in a timely fashion (i.e., within 30 days of the date of the billing), in which case Eximbank will require the requester to pay the full amount owed plus any applicable inter-

est or demonstrate that he has, in fact, paid the fee, and to make an advance payment of the full amount of the estimated fee before Eximbank begins to process a new request or a pending request from the requester. The administrative time limits prescribed in subsection (a)(6) of the FOIA (i.e., 10 working days from receipt of initial requests and 20 working days from receipt of appeals from initial denial, plus permissible extensions of these time limits) will begin only after Eximbank has received fee payments described above.

(h) *Effect of the Debt Collection Act of 1982 (Pub. L. 97-365).* In accordance with the provisions and authorities of the Debt Collection Act of 1982, Eximbank reserves the right to disclose information to consumer reporting agencies and to use collection agencies, where appropriate, to encourage payment of fees.

(i) *Fee waivers and appeals.* (1) Eximbank will waive or reduce applicable fees upon request, only if it determines that in the particular instance, disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, and the disclosure is not primarily in the commercial interest of the requester.

(i) In determining whether disclosure of the information is in the public interest because it is likely to contribute significantly to public understanding of the operations or activities of the government, Eximbank will consider the following factors:

(A) The subject of the request: Whether the subject of the requested records concerns the operations or activities of the government;

(B) The informative value of the information to be disclosed: Whether the disclosure is likely to contribute to an understanding of government operations or activities;

(C) The contribution to an understanding of the subject by the general public likely to result from disclosure: Whether disclosure of the requested information will contribute to public understanding and;

(D) The significance of the contribution to public understanding: Whether

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the disclosure is likely to contribute significantly to public understanding of government operations or activities.

(ii) In determining whether disclosure of the information is not primarily in the commercial interest of the requester, Eximbank will consider the following factors:

(A) The existence and magnitude of a commercial interest: Whether the requester has a commercial interest that would be furthered by the requested disclosure; and, if so

(B) The primary interest in disclosure: Whether the magnitude of the identified commercial interest of the requester is sufficiently large, in comparison with the public interest in disclosure, that disclosure is primarily in the commercial interest of the requester.

(2) The requester in all cases has the burden of presenting sufficient evidence or information to justify the requested waiver or reduction. The requester may use the procedures set forth in §404.5 to appeal the denial of a waiver request under this section.

[52 FR 37438, Oct. 7, 1987]

§ 404.7 Annual Report to Congress.

On March 1 of each calendar year, Eximbank will report to Congress on the administration of the public requests for information and records during the prior calendar year.

§ 404.8 Appearances and testimony by Eximbank officers and employees.

Whenever an officer or employee of Eximbank is served with a subpoena demanding the disclosure of the information or the production of files, documents, and records described in this part, or is requested by court, committee or other body to disclose such information, the officer or employee shall promptly inform his superior of the requirements of the subpoena or request and shall ask for instructions from the General Counsel or his designee with respect thereto. Such officer or employee shall appear before the court, committee or body and, if the President and Chairman or his designee has not authorized disclosure, the employee shall respectfully decline to disclose the information or produce the files, documents, and records demanded

or requested, basing such refusal upon this part

[40 FR 7238, Feb. 19, 1975, as amended at 42 FR 56316, Oct. 25, 1977]

PART 405—PRIVACY ACT RULES

Sec.

405.1 Purpose and scope.

405.2 Procedures for notification of existence of records pertaining to individuals.

405.3 Procedures for requests for access to or disclosure of records pertaining to individuals.

405.4 Correction of records pertaining to individuals.

405.5 Disclosure of records pertaining to individuals to agencies or to individuals other than the individual to whom said records pertain.

AUTHORITY: 5 U.S.C. 552a(f).

SOURCE: 41 FR 19299, May 12, 1976, unless otherwise noted.

§ 405.1 Purpose and scope.

This part sets forth the Eximbank procedures under the Privacy Act of 1974, as required by 5 U.S.C. 552a(f), whereby individuals may safeguard their privacy by obtaining access to and requesting corrections of those records under the control of Eximbank which contain information about them.

§ 405.2 Procedures for notification of existence of records pertaining to individuals.

(a) The systems of records, as defined in the Privacy Act of 1974, maintained by Eximbank are listed annually in the FEDERAL REGISTER as required by that Act. Any individual who wishes to know whether any of these systems of records contains a record pertaining to him or her may either appear in person at Room 1031, 811 Vermont Avenue, NW., Washington, DC 20571, on work days between the hours of 8:45 a.m. and 5:00 p.m. or may write to the Vice President—Administration, Export-Import Bank of the United States, 811 Vermont Avenue, NW., Room 1031, Washington, DC 20571. It is recommended that requests be made in writing, as it will not always be possible to determine the existence of a